IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.3389 of 2006.

Date of decision : 26.9.2006.

Sanjiv Kumar .....Appellant

versus

Punjab Wakf Board .....Respondent

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Sandeep Kotla, Advocate, for the appellant.

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ORDER

HEMANT GUPTA, J. (oral)

The defendant is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby the suit for permanent injunction was decreed and the defendant was restrained from changing the nature of the suit property by way of raising construction in any manner.

It is the case of the plaintiff that one Madho Ram Khurana was inducted as lessee and defendant has been inducted by said Madho Ram Khurana as sub-lessee. The defendant has admitted that they have taken cultivating possession of the land in dispute from Madho Ram Khurana and he is in cultivating possession over the land in dispute, as shown in site plan. Further, it is asserted that the defendant has submitted an application for recording the defendant in the record of plaintiffs as tenant. However, without deciding the said application, the plaintiff has filed the present suit.

Both the Courts have found that defendant had applied for transfer of tenancy right in his name, but his case was never accepted. The ownership of the plaintiff over the suit land measuring 8 kanals 9 marlas is admitted. Thus, it was found that possession of the defendant over the suit

land is unauthorised and that he has no right to raise construction thereon or to change the nature of the suit property.

In view of the fact that defendant has sought transfer of tenancy right, which has not been granted, I do not find any illegality or irregularity in the finding recorded by the Courts below, which may raise any substantial question of law in the second appeal, for consideration of this Court.

Dismissed in limine.

(HEMANT GUPTA)
JUDGE

September 26, 2006.

**mohinder*